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KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
November 20, 2007**

Present: Commissioners Lythgoe, Notbohm and Weber; Harold Stepper and Mike Hoffman, County Planners; Joe Carter, Road Supervisor; Wes Sandifer, Moore & VanAllen; Ken Vivrette, Jan Anderson, Greg Dahl, Larry Trettin, Jeff Gerth

CALENDAR REVIEW

COMMISSION REPORTS

HEADWATERS RETIREMENT

Commissioner Weber reported that he attended the retirement party for Judi Tillman from Headwaters. She will be leaving as of the end of this year. There will be a three to five month delay in getting a new coordinator, due to federal requirements that a search cannot begin until she leaves. The coordinator from the Bozeman/Livingston area will be coming over to help out in the interim.

PLANNING BOARD

Commissioner Weber reported that he attended the Planning Board meeting. The fire chiefs have contracted with Bruce Suenram to draft fire guidelines for subdivisions.

HEADWATERS RC&D

Commissioner Weber stated that he attended the Headwaters meeting in Butte. The area work plan documents are circulating in the mail.

SOUTH HELENA INTERCHANGE

Commissioner Lythgoe stated that he attended the official opening of the South Helena interchange/roundabout/frontage road that morning. Senator Baucus, Governor Schweitzer, and representatives from Lewis & Clark and Jefferson Counties and the City of Helena were in attendance. He noted that this particular project wouldn't have happened if there hadn't been

huge cooperation between these agencies and private individuals that contributed significantly to this project. Bob Peccia Engineering alone donated approximately \$1 million to the design of the interchange. They met monthly with MDT working to put this together. They were still \$3.5 million short of funds and Senator Baucus was successful in getting \$10 million for the I-15 corridor. Commissioner Lythgoe stated that he worked for MDT for several years, and he never saw anything happen so quickly. He was proud to be a part of this project.

WORKER'S COMPENSATION

Commissioner Notbohm reported that he attended a meeting the previous day with Anna Cossel, Ed Krasinski and John from Putnam Associates. They will be helping get our costs down related to worker's compensation. This will be on the agenda on the 4th for formal approval.

Commissioner Weber thanked him for attending that meeting.

CORRESPONDENCE

Commissioner Weber stated that we received task order #20 from Great West Engineering, which is related to engineering for the water reservoir for Ridgeview Estates subdivision. The work is not to exceed \$4,500. Commissioner Notbohm has indicated that he doesn't agree with this, so he brought it to the meeting to discuss. Commissioner Notbohm stated that this has been discussed and his feelings have been made known. He feels that we caved to the threats of the fire district; he is against this. Commissioner Lythgoe moved that this agreement be signed and noted that as Commissioner Notbohm mentioned, it has already been agreed upon that we would do this and all parties have signed that agreement. Commissioner Weber seconded.

Commissioner Lythgoe stated that like Commissioner Notbohm, he was not particularly pleased with how this turned out, but we did accept the responsibility to put the water storage facility in place. He doesn't like it, but it is what we agreed to. Commissioner Notbohm stated that he doesn't deny the need for this, but it just proves that you need to be careful what you agree to. This is another \$4,500, and we have heard from the road foreman that he won't be able to move the tanks. This is just a drop in the bucket as to what the final cost will be. The motion carried, with Commissioner Lythgoe and Commissioner Weber voting aye and Commissioner Notbohm voting nay.

SUBDIVISION REVIEW

FINAL PLAT APPROVAL - AMENDED PLAT TRACT 6 OF SPRING WHEAT HEIGHTS, MICROWAVE HEIGHTS MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report on this 4-lot minor subdivision north of Montana City. The parcel contains 20.08 acres, proposed to be split into four lots ranging in size from 2.01 to 2.29 acres. Individual wells and septic systems are proposed. The three-year noxious weed plan has been approved by the Weed Board. The developer has agreed to a cash-in-lieu payment to the fire district. Mike recommended that final plat approval be granted.

Commissioner Weber stated that one of the things that he liked about this proposal was the fact
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that they acknowledged that there was going to be secondary development on the remainder tract and would be done in two phases and would really be a major. He asked how this changed to a minor. Mike stated that for the purposes of filing the plat with the Clerk and Recorder, they've technically got the four lots; they couldn't file it as a major subdivision. Commissioner Weber asked that the fact they are aren't developing them at the same time forces us into a minor review versus a major review. Mike stated that technically, this is correct. The remainder tract will be reviewed entirely separate.

Commissioner Weber asked if this change impacted at all the decisions made towards the roads in the subdivision. Mike stated that it has not. The original road as planned is what exists today. Commissioner Lythgoe noted that the document states that the lots range in size from 2.01 to 4.07, but sees no 4.07. Mike stated that this is a typo, the lots range in size from 2.01 to 2.29 acres.

Commissioner Lythgoe noted that Mike had called him the previous day regarding a utility issue, and asked if it was related to this subdivision. Mike stated that he did speak to Commissioner Lythgoe by phone. The concerns were mitigated by the facilitator. Power is contiguous to the subdivision. Commissioner Weber stated that rather than coming in with a phase two, they will be doing another subdivision that will need to be reviewed as a major, and asked if that is correct. Mike answered that it won't have to be treated as a major, as it really isn't a tract within the subdivision. Commissioner Notbohm asked for clarification, that in the past if a large parcel is left, that was subsequently subdivided, it was done under major criteria, and questioned what is different with this one. Mike stated that there have been no changes to the original plat. If they were to change lot sizes, that would require changes to be submitted to DEQ.

Larry Trettin stated that he has a question. Faith Lane comes down to and meets a fence line. The fence line is the center of a public easement that he has been concerned with for a long time. The Commission has said that the public easement is to be built by homeowners as they subdivide. The homeowners as they subdivide are supposed to do a half road, so that eventually when people subdivide on both sides of the easement, it will be a 24-foot road bed. This has been started by the Fenskes, deeded as a public easement for utilities. Unfortunately, they didn't go quite far enough on their half road. Then, Mr. Tomaski asked for the two major subdivisions, and he had it in his preliminary plan how that was all going to tie in. He was going to do a 12-foot road bed from the hammerhead to the very last part of this land. Then on phase two, he was going to come back and tie it in with a 24-foot road bed. Even though this is just a minor, does he still tie in that final 12 feet of the public easement. When this is passed today, then the one next to him that is sharing Faith Lane has also got a section, and he is wondering how to tie in this public easement, and who will be responsible for it. Before they changed this, it was going to be that Mr. Tomaski has a way of doing this. If Mr. Gerth, with the Elkhorn Hills Subdivision, was going to tie in his section, he has 260 feet of public easement on his property that would have to be tied in. If the Fenskes were to do their part, there is 350 feet of road that wasn't finished in there on their subdivision. He wants them to know that he isn't trying to get everyone else to build this road, but if they do their part right, when and if he decides to subdivide, his share will be to come in and all the way from Wonder Road to the hammerhead, which is 1200 feet of road that he would have to build, plus tying in to two culverts. His share is substantial. His concern is that he doesn't want the Commission to pass this on a final and then

if he subdivides he will not only have to do his portion of road, but also the other parts that haven't been done. Commissioner Weber asked if he borders this subdivision. Larry stated that he shares a border with this subdivision and the next one.

Ken Vivrette stated that this has been flogged to death at two public hearings. He tried to put this together and have everyone take the high road and do their part in building half of the road. He thinks that to address this while hearing Microwave Heights minor subdivision is probably out of place. What he has done, as far as what Larry is dealing with, with the Fenskes, he will talk to them. When they did their road, it should have come all the way up to the Gerst's. That part hasn't happened, which has nothing to do with this subdivision. Commissioner Weber asked who owns this parcel. Ken stated that the Tomaskis own this, and it is half of Faith Lane north. Ken gave a brief history of the development in the area, while reviewing a map with the Commissioners. He stated that there are ways around this, such as just ending the road in a cul-de-sac, but they wanted to look at the long term. Commissioner Notbohm asked about leaving the road at 12 feet. Ken stated that this isn't the best solution. Mrs. Tomaski is already planning to work on Angel Lane. This was one of her husband's dying requests.

Commissioner Lythgoe noted that with Microwave Hill road being the main access to these two subdivisions, Angel Lane is not the primary access. He questioned if it is considered secondary access, and asked if any lots will be accessed off of Angel Lane. Ken stated that there shouldn't be. Commissioner Notbohm asked if we are losing an opportunity here. Ken asked if they are losing an opportunity to do what. Commissioner Notbohm stated that surrounding land will be developed. In the big picture is the County doing the right thing here by allowing 12-foot roads to be constructed. Commissioner Lythgoe stated that there is already a 12-foot road there; adding the other 12 feet will make it a 24-foot road. Commissioner Notbohm noted that the 24-foot road would end at his property line. Ken replied that the next subdivision the Commissioners will be reviewing is contiguous to this, and when he has the money will continue the road further. This is outlined in the articles of incorporation. Commissioner Notbohm noted then, that Mr. Trettin won't be impacted by these developments. Ken stated that this area will be further developed. Larry is being positively impacted because half of the road is being built. He won't have to build a 30-foot road on his land. Commissioner Notbohm stated that one of his main concerns when they do these is that everyone is treated fairly. Ken stated that if they can come up with a fairer solution, he would be interested in hearing it.

Larry Trettin stated that he isn't trying to cause problems, but this all started in 2005. When he heard at that time that he would have to fill in the road to Fenske's property, he has a problem. He would also like to see some sort of a timeline. The location of the road is also an issue. Commissioner Lythgoe stated that the reality of the situation is that if you decide you want to subdivide your property and you want to get to the back part of your property, you will be on that other 12 feet anyway. The idea that you can match your 12 feet with their 12 feet is impossible. Commissioner Weber stated that we really can't be discussing what we will or won't do on a future subdivision.

Commissioner Lythgoe moved to grant final plat approval. Commissioner Notbohm seconded. The motion carried.

FINAL PLAT APPROVAL - ELKHORN HILLS MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report for this minor subdivision north of Montana City. The parcel contains 10.04 acres, to be divided into five two-acre lots. The developer has opted for cash-in-lieu of water supply facility. Mike recommended that final plat approval be granted.

Joe stated that he still has a couple of concerns. There is still a culvert that needs to be placed at the hammerhead. He has gotten a letter resolving this from Ken Vivrette. He stated that he can also see where Mr. Trettin is coming from, that things didn't get tied in. Just ending the road in a cul-de-sac may be the best way to go, but the long-term plan was to have Angel Lane go all the way through. There seems to be a missing piece of the puzzle. He is aware of it, but not sure which way to go with this. Also, there is a culvert that needs to be in place at the end of Faith Lane. Commissioner Weber asked if there is still work that needs to be done. Joe stated that he has a letter from Ken Vivrette outlining the mitigation. Commissioner Weber asked if this is something that needs to be bonded. Mike stated that they met regarding this that morning, and we have a letter from Ken Vivrette. Commissioner Weber read the letter. Commissioner Notbohm asked Joe if he feels that the work should be done before final plat approval is granted. Joe stated that he doesn't want to hold up the process, but there is a culvert that needs to be put in. Regarding the other issue, the other concern with the other property line and road, he doesn't have an answer for that. As long as we have in writing that the culvert will be put in, he doesn't have a problem with final plat being given. Ken Vivrette stated again that this is a minor subdivision completely accessed by Faith Lane. The developers have graciously accepted the obligation to finishing their half of the road. This will be addressed when they do Microwave Heights phase 2. Buzz Tomaski has already told Kathy that he wants this done now. Weather permitting, this will be done. The first item on the agenda is the culvert. The second item will be a second point of ingress/egress to the north. He stated that he is good friends with the Fenskes, and he thinks it was an oversight on their part not to finish the road to the Gerst property. He will work out the details with the Fenskes. Commissioner Weber asked Mike about the requirement of a culvert that isn't a part of the road plans, and if this is outside of what was required for final plat. Mike stated that the culvert was not part of the conditions.

Commissioner Lythgoe moved to grant final plat approval. Commissioner Notbohm seconded. Larry Trettin noted that per the preliminary plat, Angel Lane will be maintained by the homeowner's association and asked if there is any documentation of how this works and how the accounting is set up. Commissioner Weber stated that this is up to the homeowner's association to set up as a part of their covenants. Mike stated that with these two proposals from today, there will be a maintenance agreement filed with the Clerk and Recorder. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

DISCUSS MAKING A PORTION OF DAHL DRIVE A COUNTY ROAD FOR THE PURPOSE OF SPEED LIMIT ENFORCEMENT

Greg Dahl thanked the Commissioners for allowing him to present this today. Greg showed the proposed development, which lies entirely in Lewis and Clark County, on a large aerial map. A November 20, 2007 minutes.wpd

small portion of an access road lies in Jefferson County. They will build and maintain the road, but the Helena City Attorney was concerned with the issue of speed limit enforcement. Commissioner Weber stated that we have two issues that will impact the discussion. One, we have no way to accept a road for speed limit enforcement only. If we exert our jurisdiction on the road in one area, it is our road. Two, there is a set way that a road becomes a county road, and that is through a petition process. He asked Greg about his plans in coming forward with a petition. Greg stated that he would certainly be willing to do whatever the Commission would be willing to consider.

Commissioner Weber stated that we entertain all petitions that come forward, so it would behoove Greg to do that if he wants this accepted as a county road. He knows that they cannot accept a road for speed limit control only. The sheriff has the responsibility to enforce the laws on that road as a public access.

Greg asked if the speed limit is one that is recommended by the city and approved by the homeowners and posted on the road, is it enforceable by the sheriff. Commissioner Weber stated that he believes so. Commissioner Notbohm asked about the length of the road, and if our law enforcement would be able to cross county lines in pursuit. Commissioner Weber stated that he believes that we have a mutual aid agreement with Lewis & Clark County and City of Helena. Commissioner Weber stated that this would be something to pursue with Lewis & Clark County. He noted that, per statute, the speed limit can be no lower than 35 mph without conducting an engineered speed study, or meeting several criteria. Greg stated that they certainly wouldn't want the speed any higher than 35 mph.

Commissioner Weber asked if all of the development is within the city limits, or is some of it in Lewis and Clark County. Greg stated that currently, it is all in the county, but they have a request for annexation that will be acted on concurrently with their request for final plat approval. The location of the development was discussed while reviewing a map submitted by Mr. Dahl.

Commissioner Weber asked for clarification if Dave Neilson's concern is that all the roads related to the subdivision are designated. Greg stated that he was concerned about the ability of law enforcement to issue tickets to a reckless driver. Commissioner Weber stated that county law enforcement could certainly enter a public road and enforce the law, whether it is a county road or not. Greg stated that this may well address the concerns that the city attorney had. He will investigate a bit further with the City Attorney and Sheriff. Commissioner Weber stated that he is welcome to pursue the petition process and explained it to him.

Commissioner Notbohm stated that just to address a concern that Joe Carter had that, if accepted, the Commissioner could designate the road as a non-maintained county road.

DISCUSS DRAFT EXPARTE POLICY

This item will be moved to future agenda as the County Attorney was not able to be in attendance at this meeting.

APPOINT BOARD MEMBER

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Commissioner Notbohm stated that he has spoken with both Dave Kirsch and Barb Reiter. He feels that either would be a good applicant. He noted that he did ask both if they would be interested in serving on another board. He nominated Dave Kirsch for the position. Commissioner Weber seconded. The motion carried.

RESOLUTION 40-2007 SETTING PER DIEM RATES

Commissioner Weber read the resolution as follows:

**RESOLUTION 40-2007
SETTING PER DIEM RATES AND MILEAGE CLAIM**

WHEREAS, the governing body of the County shall, by resolution, establish a per diem rate for mileage reimbursement for in-state and out of state.

WHEREAS, the governing body of the County shall, by resolution, establish rates for in-state and out-of-state meal reimbursements and in-state and out-of state lodging reimbursements.

NOW, THEREFORE, BE IT RESOLVED, the following rates shall be set for reimbursement of mileage and meal reimbursement, and lodging:

Standard mileage will be 48.5 cents per mile up to 1,000 miles, and will be 45.5 cents thereafter.

State lodging rate is \$70 plus tax, other than those specifically listed as high cost areas: Gallatin County, Silver Bow County, Lewis & Clark County, Missoula County, Lake County and Flathead County.

Meal reimbursement shall be as follows:

Morning meal, between 12:01 a.m. and 10:00 a.m. is \$5.00

Midday meal, between 10:01 a.m. and 3:00 p.m. is \$6.00

Evening meal, between 3:01 p.m. and 12 midnight is \$12.00

DATED this 20th day of November, 2007.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

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KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER

Commissioner Lythgoe moved to adopt the resolution. Commissioner Notbohm seconded. The motion carried.

DISCUSS RESOLUTION RELATED TO FREE TRADE

Wes Sandifer stated that he is representing domestic manufacturing in Montana. He stated that the current free-trade system is being undermined. The resolution asks that the Montana legislature work to strengthen Montana's trade policies.

Commissioner Weber stated that he read through the document and it doesn't appear that there is any problem with the idea of free trade across borders, but just that it be done in a fair and equitable manner. Wes stated that this is correct; they are trying to set a level playing field across borders. If we ship things out, we ship them through a process, but this doesn't happen with items being shipped in. Commissioner Weber asked if he is attempting to get all 56 Montana counties to accept this and then move it to the state level. Wes stated that the State Senate has already passed a joint resolution basically saying the exact same thing. It went before the House Labor and Business committee and died in committee. They are trying to get the counties involved to get it back before the House committee, pass it and go forward from there.

Commissioner Weber stated that when reading this he noticed that it is not against free trade, but just attempts to level the playing field. Secondly, the producers and products mentioned in the resolution impact our population. Asked if they are targeting that population or all counties. Wes stated that they are starting with the far western counties and going from there. They may reach out to the other counties depending on how these counties go.

Commissioner Notbohm stated that he read over this and asked who Wes is affiliated with. Wes stated that he represents domestic manufacturing, and he works for a law firm out of North Carolina. Commissioner Notbohm stated that we have a problem with the forestry issues and asked if lobbying is being done. Wes stated that this is more at the state level, and he is working with counties, but something is being done. Commissioner Notbohm stated that there is lobbying to get logging shut down in Montana. We are seeing a lot of Canadian lumber and Montana sawmills shutting down.

Commissioner Weber asked if they are trying to get as many of these done for the next session. Wes stated that they would like to. They do understand that this is a process and might take a while. Since it died in the House committee, it might not come up first thing, and could be late session. Commissioner Weber asked if there is any problem in us passing this sooner rather than closer to the legislature. Wes stated that passing now is an incentive to other counties to become involved. Commissioner Lythgoe asked if they are doing this in other states as well. Wes stated

that they have done these resolutions in Iowa, Ohio, Alabama, more of the swing states for the Presidents, as they would like this to be on their platform as well.

Commissioner Weber stated that this will be on future agendas, and noted that he knows that Beaverhead County would be very interested in this. He stated that Wes may also want to contact MACo in Helena.

Commissioner Lythgoe moved to adjourn. Commissioner Notbohm seconded.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER